

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

In re:  THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,  as representative of  THE COMMONWEALTH OF PUERTO RICO <u>et al.</u> ,  Debtors. <sup>1</sup>	PROMESA Title III  Case No. 17 BK 3283-LTS  (Jointly Administered)
In re:  THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,  as representative of  PUERTO RICO ELECTRIC POWER AUTHORITY,  Debtor.	PROMESA Title III  Case No. 17 BK 4780-LTS

ORDER GRANTING URGENT MOTION FOR AN  
ORDER IN LIMINE PRECLUDING THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS FROM ENTERING EXPERT REPORT INTO EVIDENCE AT THE 9019 MOTION HEARING

Before the Court is the *Urgent Motion for an Order in Limine Precluding the Official Committee of Unsecured Creditors from Entering Expert Report into Evidence at the*

<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

9019 Motion Hearing (Docket Entry Nos. 1725 and 1739 in Case No. 17-4780,<sup>2</sup> the “Motion”)<sup>3</sup> filed by the Government Parties. The Motion seeks an order in limine precluding the Official Committee of Unsecured Creditors (the “Committee”) from introducing the LEI Report<sup>4</sup> into evidence at the forthcoming hearing on the 9019 Motion. The Court has reviewed carefully the Motion and all of the related pleadings.

The LEI Report principally comprises analyses of the utility industry, PREPA’s long-term revenue prospects, and similar macroeconomic issues that are outside the scope of the 9019 Motion hearing as previously delineated by the Court. The Committee construes in an unreasonably broad fashion the aspects of the Government Parties’ declarations to which it purports to proffer the LEI Report as a response. For these reasons and for substantially the reasons set forth in the Reply, the Motion is granted, and the Committee is precluded from entering the LEI Report into evidence at the 9019 Motion hearing. Moreover, as the Committee commissioned and proffered an expert report that was clearly outside the scope the Court had set for the 9019 Motion practice, and because the Committee’s arguments with respect to the relevance of the LEI Report in connection with the rebuttal of proffers in the declarations tendered by the Government Parties are contrary to the Court’s previous construction of the referenced elements of such declarations, the Court is bringing the matter to the attention of the Fee Examiner by providing the Fee Examiner with a copy of this Order, and hereby directs the Government Parties to provide copies of the LEI Report and the unredacted Reply to the Fee Examiner for context. The Fee Examiner is directed to treat the materials as confidential pending the resolution of the sealing motions described in footnote 3 of this Order.

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<sup>2</sup> All docket entry references are to entries in Case No. 17-4780.

<sup>3</sup> The Financial Oversight and Management Board for Puerto Rico, PREPA, and the Puerto Rico Fiscal Agency and Financial Advisory Authority (collectively, the “Government Parties”) originally filed a public, partially-redacted version of the Motion, together with an *Urgent Motion to Seal* (Docket Entry No. 1726, the “Motion to Seal”) seeking permission to file the full, unredacted version of the Motion under seal to prevent the public disclosure of information designated by the Committee as “Professionals’ Eyes Only.” By *Order Granting Motion to Seal for Limited Duration and for Supplemental Briefing* (Docket Entry No. 1738), the Honorable Judith Gail Dein temporarily granted the Motion to Seal and ordered further briefing in respect of the continued sealing of the Motion. The Government Parties subsequently filed under seal an unredacted version of the Motion (Docket Entry No. 1739), and the component of the Motion to Seal pertaining to continued sealing of the Motion remains pending before Judge Dein. The *Reply in Support of Urgent Motion for an Order in Limine Precluding the Official Committee of Unsecured Creditors from Entering Expert Report into Evidence at the 9019 Motion Hearing* (Docket Entry No. 1744, the “Reply”), which the Government Parties likewise filed publicly in redacted form, is also the subject of a pending *Urgent Motion to Seal* (Docket Entry No. 1745). This Court has reviewed unredacted versions of both the Motion and the Reply.

<sup>4</sup> Capitalized terms used but not defined herein shall have the meanings set forth in the Motion.

This Order resolves Docket Entry Nos. 1725 and 1739.

SO ORDERED.

Dated: November 20, 2019

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
United States District Judge